

104TH CONGRESS
1ST SESSION

H. R. 721

To establish fair market value pricing of Federal natural assets, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 1995

Mr. MILLER of California (for himself, Mr. VENTO, Mr. TORRES, Mr. HINCHEY, Mr. GEJDENSON, Mr. RAHALL, Mr. MEEHAN, Mr. YATES, Mrs. MALONEY, Ms. SLAUGHTER, Mr. NADLER, Mr. STARK, Mr. FRANK of Massachusetts, Ms. ROYBAL-ALLARD, Mr. GOSS, Mr. ABERCROMBIE, Mr. ACKERMAN, and Mr. SANDERS) introduced the following bill; which was referred to the Committee on Resources and, in addition, to the Committees on Ways and Means, Agriculture, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish fair market value pricing of Federal natural assets, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Public Resources Deficit Reduction Act of 1995”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—GENERAL PROVISIONS

- Sec. 101. Fair market value for resource disposal.
- Sec. 102. Fees from program beneficiaries.
- Sec. 103. Revenues from sale, lease, and transfer of assets.

TITLE II—REVENUE FROM MINING CLAIMS

- Sec. 201. Definitions.
- Sec. 202. Mining claim maintenance requirements.
- Sec. 203. Royalty.
- Sec. 204. Severance tax.
- Sec. 205. Fund for abandoned locatable minerals mine reclamation.
- Sec. 206. Limitation on patent issuance.
- Sec. 207. Purchasing power adjustment.
- Sec. 208. Savings clause.
- Sec. 209. Effective date.

TITLE III—HELIUM

- Sec. 301. Amendment of helium act.
- Sec. 302. Authority of Secretary.
- Sec. 303. Sale of crude helium.
- Sec. 304. Elimination of stockpile.
- Sec. 305. Repeal of authority to borrow.

TITLE IV—USE OR DISPOSAL OF FEDERAL NATURAL RESOURCES

- Sec. 401. Annual domestic livestock grazing fee.
- Sec. 402. Elimination of below-cost timber sales of timber from National Forest System lands.
- Sec. 403. Timberland suitability.
- Sec. 404. Cost of water used to produce surplus crops.
- Sec. 405. Reduction in maximum amount of payments under agricultural assistance programs to reflect receipt of Federal irrigation water.
- Sec. 406. Off budget expenditures.
- Sec. 407. Deposit of Taylor Grazing Act receipts in Treasury.
- Sec. 408. Repeal of livestock feed assistance program.
- Sec. 409. Communication permits.
- Sec. 410. Oil and gas rentals.

TITLE V—NATIONAL PARK CONCESSIONS

- Sec. 501. Findings and policy.
- Sec. 502. Definitions.
- Sec. 503. Repeal of Concessions Policy Act of 1965.
- Sec. 504. Concession contracts and other authorizations.
- Sec. 505. Competitive selection process.
- Sec. 506. Franchise fees.
- Sec. 507. Use of franchise fees.
- Sec. 508. Duration of contract.
- Sec. 509. Transfer of contract.
- Sec. 510. Protection of concessioner investment.
- Sec. 511. Rates and charges to public.
- Sec. 512. Concessioner performance evaluation.

Sec. 513. Recordkeeping requirements.
 Sec. 514. Exemption from certain lease requirements.
 Sec. 515. No effect on ANILCA provisions.
 Sec. 516. Implementation.
 Sec. 517. Authorization of appropriations.

1 **TITLE I—GENERAL PROVISIONS**

2 **SEC. 101. FAIR MARKET VALUE FOR RESOURCE DISPOSAL.**

3 (a) IN GENERAL.—Notwithstanding any other provi-
 4 sion of law, no timber, minerals, forage, or other natural
 5 resource owned by the United States, no Federally owned
 6 water, and no hydroelectric energy generated at a Federal
 7 facility may be sold, leased, or otherwise disposed of by
 8 any department, agency, or instrumentality of the United
 9 States for an amount less than fair market value, as deter-
 10 mined by such department, agency, or instrumentality.

11 (b) EXISTING CONTRACTS, LEASES, ETC.—

12 (1) EXISTING ARRANGEMENTS.—The provisions
 13 of subsection (a) shall not apply to any existing con-
 14 tract, lease, or other binding arrangement entered
 15 into before the date of the enactment of this Act un-
 16 less such contract, lease or other arrangement is re-
 17 newed or extended after such date of enactment.

18 (2) ARRANGEMENTS ENTERED INTO IN 5-YEAR
 19 PERIOD.—The provisions of subsection (a) shall take
 20 effect on the date 5 years after the date of enact-
 21 ment of this Act in the case of any contract, lease,
 22 or other binding arrangement entered into or re-

1 renewed or extended after such date but before the
2 date 5 years after such date.

3 (3) ARRANGEMENTS ENTERED INTO AFTER 5
4 YEARS.—The provisions of subsection (a) shall apply
5 immediately to all contracts, leases, or other binding
6 arrangements entered into or renewed or extended
7 after the date 5 years after the enactment of this
8 Act.

9 (c) WAIVER.—The President may waive the require-
10 ments of subsection (a) whenever the President deter-
11 mines that such waiver is in the national interest. The
12 President shall submit a notice to Congress containing an
13 explanation of the reasons for any such determination
14 within 60 days after the date of the determination.

15 **SEC. 102. FEES FROM PROGRAM BENEFICIARIES.**

16 (a) GENERAL AUTHORITY.—The Secretary of the In-
17 terior and the Secretary of Agriculture are each author-
18 ized to establish and collect from persons subject to pro-
19 grams administered by each such Secretary such user fees
20 as may be necessary to reimburse the United States for
21 the expenses incurred in administering such programs.
22 The aggregate amount of fees that may be assessed and
23 collected under this section by each such Secretary in any
24 fiscal year from persons subject to any such program shall

1 not exceed the aggregate amount of expenses incurred in
2 administering such program in such fiscal year.

3 (b) EFFECTIVE DATE; OIL AND GAS LEASE TRANS-
4 FERS.—The Secretary of the Interior and the Secretary
5 of Agriculture may, by rule, establish the applicable effec-
6 tive date of any fee to be imposed under this section, ex-
7 cept that fees shall be established and collected under this
8 section from each person receiving a transfer of a Federal
9 onshore oil and gas lease after the date of the enactment
10 of this section.

11 **SEC. 103. REVENUES FROM SALE, LEASE, AND TRANSFER**
12 **OF ASSETS.**

13 (a) IN GENERAL.—Section 1105(a) of chapter 11 of
14 title 31, United States Code, is amended by inserting at
15 the end the following new paragraph:

16 “(28) a separate statement of—

17 “(A) projected revenues during the fiscal
18 year for which the budget is submitted from the
19 anticipated sale, lease, or transfer of any phys-
20 ical asset; and

21 “(B) the estimated price at which this
22 asset or a comparable asset would be sold in an
23 arms length transaction in the private sector;
24 asset by asset and aggregated by major functional
25 category.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall become effective for fiscal year 1997
3 and shall be fully reflected in the fiscal year 1997 budget
4 submitted by the President in February 1996 as required
5 by section 1105(a) of title 31, United States Code.

6 **TITLE II—REVENUE FROM**
7 **MINING CLAIMS**

8 **SEC. 201. DEFINITIONS.**

9 (a) DEFINITIONS.—As used in this title:

10 (1) The term “locatable mineral” means any
11 mineral not subject to disposition under any of the
12 following:

13 (A) the Mineral Leasing Act (30 U.S.C.
14 181 and following);

15 (B) the Geothermal Steam Act of 1970
16 (30 U.S.C. 100 and following);

17 (C) the Act of July 31, 1947, commonly
18 known as the Materials Act of 1947 (30 U.S.C.
19 601 and following); or

20 (D) the Mineral Leasing for Acquired
21 Lands Act (30 U.S.C. 351 and following).

22 (2) The term “mineral activities” means any
23 activity for, related to or incidental to mineral explo-
24 ration, mining, beneficiation and processing activi-

1 ties for any locatable mineral, including access.

2 When used with respect to this term—

3 (A) The term “exploration” means those
4 techniques employed to locate the presence of a
5 locatable mineral deposit and to establish its
6 nature, position, size, shape, grade and value.

7 (B) The term “mining” means the proc-
8 esses employed for the extraction of a locatable
9 mineral from the earth.

10 (C) The term “beneficiation” means the
11 crushing and grinding of locatable mineral ore
12 and such processes as are employed to free the
13 mineral from other constituents, including but
14 not necessarily limited to, physical and chemical
15 separation techniques.

16 (D) The term “processing” means proc-
17 esses downstream of beneficiation employed to
18 prepare locatable mineral ore into the final
19 marketable product, including but not limited
20 to, smelting and electrolytic refining.

21 (3) The term “mining claim” means a claim for
22 the purposes of mineral activities.

23 (4) The term “Secretary” means, unless other-
24 wise provided in this title, the Secretary of the Inte-

1 rior acting through the Director of the Minerals
2 Management Service.

3 **SEC. 202. MINING CLAIM MAINTENANCE REQUIREMENTS.**

4 (a) IN GENERAL.—The holder of each mining claim
5 located on lands open to location shall pay to the Secretary
6 an annual claim maintenance fee of \$100 per claim per
7 calendar year.

8 (b) TIME OF PAYMENT.—The claim maintenance fee
9 payable pursuant to subsection (a) for any year shall be
10 paid on or before August 31 of each year, except that for
11 the initial calendar year in which the location is made,
12 the locator shall pay the initial claim maintenance fee at
13 the time the location notice is recorded with the Bureau
14 of Land Management.

15 (c) OIL SHALE CLAIMS SUBJECT TO CLAIM MAINTENANCE FEES UNDER ENERGY POLICY ACT OF 1992.—
16 This section shall not apply to any oil shale claims for
17 which a fee is required to be paid under section 2511(e)(2)
18 of the Energy Policy Act of 1992 (106 Stat. 3111; 30
19 U.S.C. 242).

21 (d) CLAIM MAINTENANCE FEES PAYABLE UNDER
22 1993 ACT.—The claim maintenance fees payable under
23 this section for any period with respect to any claim shall
24 be reduced by the amount of the claim maintenance fees
25 paid under section 10101 of the Omnibus Budget Rec-

1 conciliation Act of 1993 with respect to that claim and with
2 respect to the same period.

3 (e) WAIVER.—(1) The claim maintenance fee re-
4 quired under this section may be waived for a claim holder
5 who certifies in writing to the Secretary that on the date
6 the payment was due, the claim holder and all related par-
7 ties held not more than 10 mining claims on lands open
8 to location. Such certification shall be made on or before
9 the date on which payment is due.

10 (2) For purposes of paragraph (1), with respect to
11 any claim holder, the term “related party” means each
12 of the following:

13 (A) The spouse and dependent children (as de-
14 fined in section 152 of the Internal Revenue Code of
15 1986), of the claim holder.

16 (B) Any affiliate of the claim holder.

17 (f) CO-OWNERSHIP.—Upon the failure of any one or
18 more of several co-owners to contribute such co-owner or
19 owners’ portion of the fee under this section, any co-owner
20 who has paid such fee may, after the payment due date,
21 give the delinquent co-owner or owners notice of such fail-
22 ure in writing (or by publication in the newspaper nearest
23 the claim for at least once a week for at least 90 days).
24 If at the expiration of 90 days after such notice in writing
25 or by publication, any delinquent co-owner fails or refuses

1 to contribute his portion, his interest in the claim shall
2 become the property of the co-owners who have paid the
3 required fee.

4 **SEC. 203. ROYALTY.**

5 (a) RESERVATION OF ROYALTY.—Production of all
6 locatable minerals from any mining claim located under
7 the general mining laws, or mineral concentrates or prod-
8 ucts derived from locatable minerals from any mining
9 claim located under the general mining laws, as the case
10 may be, shall be subject to a royalty of 8 percent of the
11 gross income from such production. The claimholder and
12 any operator to whom the claimholder has assigned the
13 obligation to make royalty payments under the claim and
14 any person who controls such claimholder or operator shall
15 be jointly and severally liable for payment of such royal-
16 ties.

17 (b) DUTIES OF CLAIM HOLDERS, OPERATORS, AND
18 TRANSPORTERS.—(1) A person—

19 (A) who is required to make any royalty pay-
20 ment under this section shall make such payments
21 to the United States at such times and in such man-
22 ner as the Secretary may by rule prescribe; and

23 (B) shall notify the Secretary, in the time and
24 manner as may be specified by the Secretary, of any
25 assignment that such person may have made of the

1 obligation to make any royalty or other payment
2 under a mining claim.

3 (2) Any person paying royalties under this section
4 shall file a written instrument, together with the first roy-
5 alty payment, affirming that such person is liable to the
6 Secretary for making proper payments for all amounts due
7 for all time periods for which such person as a payment
8 responsibility. Such liability for the period referred to in
9 the preceding sentence shall include any and all additional
10 amounts billed by the Secretary and determined to be due
11 by final agency or judicial action. Any person liable for
12 royalty payments under this section who assigns any pay-
13 ment obligation shall remain jointly and severally liable
14 for all royalty payments due for the claim for the period.

15 (3) A person conducting mineral activities shall—

16 (A) develop and comply with the site security
17 provisions in operations permit designed to protect
18 from theft the locatable minerals, concentrates or
19 products derived therefrom which are produced or
20 stored on a mining claim, and such provisions shall
21 conform with such minimum standards as the Sec-
22 retary may prescribe by rule, taking into account the
23 variety of circumstances on mining claims; and

24 (B) not later than the 5th business day after
25 production begins anywhere on a mining claim, or

1 production resumes after more than 90 days after
2 production was suspended, notify the Secretary, in
3 the manner prescribed by the Secretary, of the date
4 on which such production has begun or resumed.

5 (4) The Secretary may by rule require any person en-
6 gaged in transporting a locatable mineral, concentrate, or
7 product derived therefrom to carry on his or her person,
8 in his or her vehicle, or in his or her immediate control,
9 documentation showing, at a minimum, the amount, ori-
10 gin, and intended destination of the locatable mineral, con-
11 centrate, or product derived therefrom in such cir-
12 cumstances as the Secretary determines is appropriate.

13 (c) RECORDKEEPING AND REPORTING REQUIRE-
14 MENTS.—(1) A claim holder, operator, or other person di-
15 rectly involved in developing, producing, processing, trans-
16 porting, purchasing, or selling locatable minerals, con-
17 centrates, or products derived therefrom, subject to this
18 Act, through the point of royalty computation shall estab-
19 lish and maintain any records, make any reports, and pro-
20 vide any information that the Secretary may reasonably
21 require for the purposes of implementing this section or
22 determining compliance with rules or orders under this
23 section. Such records shall include, but not be limited to,
24 periodic reports, records, documents, and other data. Such
25 reports may also include, but not be limited to, pertinent

1 technical and financial data relating to the quantity, qual-
2 ity, composition volume, weight, and assay of all minerals
3 extracted from the mining claim. Upon the request of any
4 officer or employee duly designated by the Secretary or
5 any State conducting an audit or investigation pursuant
6 to this section, the appropriate records, reports, or infor-
7 mation which may be required by this section shall be
8 made available for inspection and duplication by such offi-
9 cer or employee or State.

10 (2) Records required by the Secretary under this sec-
11 tion shall be maintained for 6 years after cessation of all
12 mining activity at the claim concerned unless the Sec-
13 retary notifies the operator that he or she has initiated
14 an audit or investigation involving such records and that
15 such records must be maintained for a longer period. In
16 any case when an audit or investigation is underway,
17 records shall be maintained until the Secretary releases
18 the operator of the obligation to maintain such records.

19 (d) AUDITS.—The Secretary is authorized to conduct
20 such audits of all claim holders, operators, transporters,
21 purchasers, processors, or other persons directly or indi-
22 rectly involved in the production or sales of minerals cov-
23 ered by this title, as the Secretary deems necessary for
24 the purposes of ensuring compliance with the require-
25 ments of this section. For purposes of performing such

1 audits, the Secretary shall, at reasonable times and upon
2 request, have access to, and may copy, all books, papers
3 and other documents that relate to compliance with any
4 provision of this section by any person.

5 (e) COOPERATIVE AGREEMENTS.—(1) The Secretary
6 is authorized to enter into cooperative agreements with the
7 Secretary of Agriculture to share information concerning
8 the royalty management of locatable minerals, con-
9 centrates, or products derived therefrom, to carry out in-
10 spection, auditing, investigation, or enforcement (not in-
11 cluding the collection of royalties, civil or criminal pen-
12 alties, or other payments) activities under this section in
13 cooperation with the Secretary, and to carry out any other
14 activity described in this section.

15 (2) Except as provided in paragraph (4)(A) of this
16 subsection (relating to trade secrets), and pursuant to a
17 cooperative agreement, the Secretary of Agriculture shall,
18 upon request, have access to all royalty accounting infor-
19 mation in the possession of the Secretary respecting the
20 production, removal, or sale of locatable minerals, con-
21 centrates, or products derived therefrom from claims on
22 lands open to location under the general mining laws.

23 (3) Trade secrets, proprietary, and other confidential
24 information shall be made available by the Secretary pur-

1 suant to a cooperative agreement under this subsection to
2 the Secretary of Agriculture upon request only if—

3 (A) the Secretary of Agriculture consents in
4 writing to restrict the dissemination of the informa-
5 tion to those who are directly involved in an audit
6 or investigation under this section and who have a
7 need to know;

8 (B) the Secretary of Agriculture accepts liabil-
9 ity for wrongful disclosure; and

10 (C) the Secretary of Agriculture demonstrates
11 that such information is essential to the conduct of
12 an audit or investigation under this subsection.

13 (f) INTEREST AND SUBSTANTIAL UNDERREPORTING
14 ASSESSMENTS.—(1) In the case of mining claims where
15 royalty payments are not received by the Secretary on the
16 date that such payments are due, the Secretary shall
17 charge interest on such under payments at the same inter-
18 est rate as is applicable under section 6621(a)(2) of the
19 Internal Revenue Code of 1986. In the case of an
20 underpayment, interest shall be computed and charged
21 only on the amount of the deficiency and not on the total
22 amount.

23 (2) If there is any underreporting of royalty owed on
24 production from a claim for any production month by any
25 person liable for royalty payments under this section, the

1 Secretary may assess a penalty of 10 percent of the
2 amount of that underreporting.

3 (3) If there is a substantial underreporting of royalty
4 owed on production from a claim for any production
5 month by any person responsible for paying the royalty,
6 the Secretary may assess an additional penalty of 10 per-
7 cent of the amount of that underreporting.

8 (4) For the purposes of this subsection, the term
9 “underreporting” means the difference between the roy-
10 alty on the value of the production which should have been
11 reported and the royalty on the value of the production
12 which was reported, if the value which should have been
13 reported is greater than the value which was reported. An
14 underreporting constitutes a “substantial underreporting”
15 if such difference exceeds 10 percent of the royalty on the
16 value of production which should have been reported.

17 (5) The Secretary shall not impose the assessment
18 provided in paragraphs (2) or (3) of this subsection if the
19 person liable for royalty payments under this section cor-
20 rects the underreporting before the date such person re-
21 ceives notice from the Secretary that an underreporting
22 may have occurred, or before 90 days after the date of
23 the enactment of this section, whichever is later.

24 (6) The Secretary shall waive any portion of an as-
25 sessment under paragraph (2) or (3) of this subsection

1 attributable to that portion of the underreporting for
2 which the person responsible for paying the royalty dem-
3 onstrates that—

4 (A) such person had written authorization from
5 the Secretary to report royalty on the value of the
6 production on basis on which it was reported, or

7 (B) such person had substantial authority for
8 reporting royalty on the value of the production on
9 the basis on which it was reported, or

10 (C) such person previously had notified the Sec-
11 retary, in such manner as the Secretary may by rule
12 prescribe, of relevant reasons or facts affecting the
13 royalty treatment of specific production which led to
14 the underreporting, or

15 (D) such person meets any other exception
16 which the Secretary may, by rule, establish.

17 (7) All penalties collected under this subsection shall
18 be deposited in the Treasury.

19 (g) EXPANDED ROYALTY OBLIGATIONS.—Each per-
20 son liable for royalty payments under this section shall
21 be jointly and severally liable for royalty on all locatable
22 minerals, concentrates, or products derived therefrom lost
23 or wasted from a mining claim located or converted under
24 this section when such loss or waste is due to negligence
25 on the part of any person or due to the failure to comply

1 with any rule, regulation, or order issued under this sec-
 2 tion.

3 (h) EXCEPTION.—No royalty shall be payable under
 4 subsection (a) with respect to minerals processed at a fa-
 5 cility by the same person or entity which extracted the
 6 minerals if an urban development action grant has been
 7 made under section 119 of the Housing and Community
 8 Development Act of 1974 with respect to any portion of
 9 such facility.

10 (i) EFFECTIVE DATE.—The royalty under this sec-
 11 tion shall take effect with respect to the production of
 12 locatable minerals after the enactment of this Act, but any
 13 royalty payments attributable to production during the
 14 first 12 calendar months after the enactment of this Act
 15 shall be payable at the expiration of such 12-month period.

16 **SEC. 204. SEVERANCE TAX.**

17 (a) SEVERANCE TAX ON MINERALS.—Chapter 36 of
 18 the Internal Revenue Code of 1986 (relating to certain
 19 other excise taxes) is amended by adding at the end the
 20 following new subchapter:

21 **“Subchapter G—Tax on Severance of**
 22 **Locatable Minerals**

23 **“SEC. 4500. TAX ON SEVERANCE OF LOCATABLE MINERALS.**

24 “(a) IN GENERAL.—There is hereby imposed a tax
 25 on gross income resulting from the severance of any

1 locatable mineral, or mineral concentrates or products,
 2 from a mine or other natural deposit located within the
 3 United States.

4 “(b) AMOUNT OF TAX.—The amount of the tax im-
 5 posed by subsection (a) shall be 8 percent of the gross
 6 income derived from the locatable mineral, or from the
 7 mineral concentrates or products, severed as described in
 8 such subsection.

9 “(c) EXCEPTION IF ROYALTY IMPOSED.—Subsection
 10 (a) shall not apply to gross income with respect to which
 11 a royalty is imposed by section 203 of the Public Re-
 12 sources Deficit Reduction Act of 1995.”.

13 (b) CONFORMING AMENDMENT.—The table of sub-
 14 chapters for chapter 36 of such Code (relating to certain
 15 other excise taxes) is amended by adding at the end the
 16 following new item:

“SUBCHAPTER G. Tax on severance of locatable minerals.”.

17 **SEC. 205. FUND FOR ABANDONED LOCATABLE MINERALS**
 18 **MINE RECLAMATION.**

19 (a) ESTABLISHMENT OF FUND.—(1) There is estab-
 20 lished on the books of the Treasury of the United States
 21 a trust fund to be known as the Abandoned Locatable
 22 Minerals Mine Reclamation Fund (hereinafter in this title
 23 referred to as the ‘Fund’). The Fund shall be administered
 24 by the Secretary acting through the Director of the Office
 25 of Surface Mining Reclamation and Enforcement.

1 (2) The Secretary shall notify the Secretary of the
2 Treasury as to what portion of the Fund is not, in the
3 Secretary's judgment, required to meet current withdraw-
4 als. The Secretary of the Treasury shall invest such por-
5 tion of the Fund in public debt securities with maturities
6 suitable for the needs of such Fund and bearing interest
7 at rates determined by the Secretary of the Treasury, tak-
8 ing into consideration current market yields on outstand-
9 ing marketplace obligations of the United States of com-
10 parable maturities. The income on such investments shall
11 be credited to, and form a part of, the Fund.

12 (b) AMOUNTS.—The following amounts shall be cred-
13 ited to the Fund:

14 (1) All moneys received from royalties under
15 section 203.

16 (2) All taxes collected under section 4500 of the
17 Internal Revenue Code of 1986.

18 (3) All donations by persons, corporations, as-
19 sociations, and foundations for the purposes of this
20 section.

21 (c) USE AND OBJECTIVES OF THE FUND.—The Sec-
22 retary is authorized, subject to appropriations, to use
23 moneys in the Fund for the reclamation and restoration
24 of land and water resources adversely affected by past
25 mineral activities on lands the legal and beneficial title to

1 which resides in the United States, land within the exte-
2 rior boundary of any National Forest System unit.

3 (d) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—
4 The provisions of section 411(d) of the Surface Mining
5 Control and Reclamation Act of 1977 shall apply to ex-
6 penditures made from the Fund established under this
7 section.

8 (e) FUND EXPENDITURES.—Moneys available from
9 the Fund may be expended for the purposes specified in
10 subsection (d) directly by the Director of the Office of Sur-
11 face Mining Reclamation and Enforcement. The Director
12 may also make such money available for such purposes
13 to the Director of the Bureau of Land Management, the
14 Chief of the United States Forest Service, the Director
15 of the National Park Service, Director of the United
16 States Fish and Wildlife Service, to any other agency of
17 the United States, to an Indian tribe, or to any public
18 entity that volunteers to develop and implement, and that
19 has the ability to carry out, all or a significant portion
20 of a reclamation program under this title.

21 (f) AUTHORIZATION OF APPROPRIATIONS.—Amounts
22 credited to the Fund are authorized to be appropriated
23 for the purpose of this section without fiscal year limita-
24 tion.

1 **SEC. 206. LIMITATION ON PATENT ISSUANCE.**

2 (a) MINING CLAIMS.—After the date of enactment of
3 this Act, no patent shall be issued by the United States
4 for any mining claim located under the general mining
5 laws unless the Secretary determines that, for the claim
6 concerned—

7 (1) a patent application was filed with the Sec-
8 retary on or before January 27, 1995; and

9 (2) all requirements established under sections
10 2325 and 2326 of the Revised Statutes (30 U.S.C.
11 29 and 30) for vein or lode claims and sections
12 2329, 2330, 2331, and 2333 of the Revised Statutes
13 (30 U.S.C. 35, 36, and 37) for placer claims were
14 fully complied with by that date.

15 If the Secretary makes the determinations referred to in
16 paragraphs (1) and (2) for any mining claim, the holder
17 of the claim shall be entitled to the issuance of a patent
18 in the same manner and degree to which such claim holder
19 would have been entitled to prior to the enactment of this
20 Act, unless and until such determinations are withdrawn
21 or invalidated by the Secretary or by a court of the United
22 States.

23 (b) MILL SITES.—After the date of enactment of this
24 Act, no patent shall be issued by the United States for
25 any mill site claim located under the general mining laws

1 unless the Secretary determines that for the mill site con-
2 cerned—

3 (1) a patent application for such land was filed
4 with the Secretary on or before January 27, 1995;
5 and

6 (2) all requirements applicable to such patent
7 application were fully complied with by that date.

8 If the Secretary makes the determinations referred to in
9 paragraphs (1) and (2) for any mill site claim, the holder
10 of the claim shall be entitled to the issuance of a patent
11 in the same manner and degree to which such claim holder
12 would have been entitled to prior to the enactment of this
13 Act, unless and until such determinations are withdrawn
14 or invalidated by the Secretary or by a court of the United
15 States.

16 **SEC. 207. PURCHASING POWER ADJUSTMENT.**

17 The Secretary shall adjust all dollar amounts estab-
18 lished in this title for changes in the purchasing power
19 of the dollar every 10 years following the date of enact-
20 ment of this Act, employing the Consumer Price Index for
21 all-urban consumers published by the Department of
22 Labor as the basis for adjustment, and rounding accord-
23 ing to the adjustment process of conditions of the Federal
24 Civil Penalties Inflation Adjustment Act of 1990 (104
25 Stat. 890).

1 **SEC. 208. SAVINGS CLAUSE.**

2 Nothing in this Act shall be construed as repealing
3 or modifying any Federal law, regulation, order or land
4 use plan, in effect prior to the effective date of this Act,
5 that prohibits or restricts the application of the general
6 mining laws, including such laws that provide for special
7 management criteria for operations under the general
8 mining laws as in effect prior to the effective date of this
9 Act, to the extent such laws provide environmental protec-
10 tion greater than required under this title.

11 **SEC. 209. EFFECTIVE DATE.**

12 Except as otherwise provided in section 206 (relating
13 to limitation on patent issuance) this title shall take effect
14 on the date 1 year after the date of enactment of this
15 Act.

16 **TITLE III—HELIUM**

17 **SEC. 301. AMENDMENT OF HELIUM ACT.**

18 Except as otherwise expressly provided, whenever in
19 this title an amendment or repeal is expressed in terms
20 of an amendment to, or repeal of, a section or other provi-
21 sion, the reference shall be considered to be made to a
22 section or other provision of the Helium Act (50 U.S.C.
23 167 to 167n).

24 **SEC. 302. AUTHORITY OF SECRETARY.**

25 Sections 3, 4, and 5 are amended to read as follows:

1 **“SEC. 3. AUTHORITY OF SECRETARY.**

2 “(a) EXTRACTION AND DISPOSAL OF HELIUM ON
3 FEDERAL LANDS.—(1) The Secretary may enter into
4 agreements with private parties for the recovery and dis-
5 posal of helium on Federal lands upon such terms and
6 conditions as he deems fair, reasonable and necessary. The
7 Secretary may grant leasehold rights to any such helium.
8 The Secretary may not enter into any agreement by which
9 the Secretary sells such helium other than to a private
10 party with whom the Secretary has an agreement for re-
11 covery and disposal of helium. Such agreements may be
12 subject to such rules and regulations as may be prescribed
13 by the Secretary.

14 “(2) Any agreement under this subsection shall be
15 subject to the existing rights of any affected Federal oil
16 and gas lessee. Each such agreement (and any extension
17 or renewal thereof) shall contain such terms and condi-
18 tions as deemed appropriate by the Secretary.

19 “(3) This subsection shall not in any manner affect
20 or diminish the rights and obligations of the Secretary and
21 private parties under agreements to dispose of helium pro-
22 duced from Federal lands in existence at the enactment
23 of the Public Resources Deficit Reduction Act of 1995 ex-
24 cept to the extent that such agreements are renewed or
25 extended after such date.

1 “(b) STORAGE, TRANSPORTATION AND SALE.—The
2 Secretary is authorized to store, transport, and sell helium
3 only in accordance with this Act.

4 “(c) MONITORING AND REPORTING.—The Secretary
5 is authorized to monitor helium production and helium re-
6 serves in the United States and to periodically prepare re-
7 ports regarding the amounts of helium produced and the
8 quantity of crude helium in storage in the United States.

9 **“SEC. 4. STORAGE AND TRANSPORTATION OF CRUDE HE-**
10 **LIUM.**

11 “(a) STORAGE AND TRANSPORTATION.—The Sec-
12 retary is authorized to store and transport crude helium
13 and to maintain and operate existing crude helium storage
14 at the Bureau of Mines Cliffside Field, together with relat-
15 ed helium transportation and withdrawal facilities.

16 “(b) CESSATION OF PRODUCTION, REFINING, AND
17 MARKETING.—Effective one year after the date of enact-
18 ment of the Public Resources Deficit Reduction Act of
19 1995, the Secretary shall cease producing, refining and
20 marketing refined helium and shall cease carrying out all
21 other activities relating to helium which the Secretary was
22 authorized to carry out under this Act before the date of
23 enactment of the Public Resources Deficit Reduction Act
24 of 1995, except those activities described in subsection (a).

1 “(c) DISPOSAL OF FACILITIES.—(1) Within one year
2 after the date of enactment of the Public Resources Defi-
3 cit Reduction Act of 1995, the Secretary shall dispose of
4 all facilities, equipment, and other real and personal prop-
5 erty, together with all interests therein, held by the United
6 States for the purpose of producing, refining and market-
7 ing refined helium. The disposal of such property shall be
8 in accordance with the provisions of law governing the dis-
9 posal of excess or surplus properties of the United States.

10 “(2) All proceeds accruing to the United States by
11 reason of the sale or other disposal of such property shall
12 be treated as moneys received under this chapter for pur-
13 poses of section 6(f). All costs associated with such sale
14 and disposal (including costs associated with termination
15 of personnel) and with the cessation of activities under
16 subsection (b) shall be paid from amounts available in the
17 helium production fund established under section 6(f).

18 “(3) Paragraph (1) shall not apply to any facilities,
19 equipment, or other real or personal property, or any in-
20 terest therein, necessary for the storage and transpor-
21 tation of crude helium.

22 “(d) EXISTING CONTRACTS.—All contracts which
23 were entered into by any person with the Secretary for
24 the purchase by such person from the Secretary of refined
25 helium and which are in effect on the date of the enact-

1 ment of the Public Resources Deficit Reduction Act of
2 1995 shall remain in force and effect until the date on
3 which the facilities referred to in subsection (c) are dis-
4 posed of. Any costs associated with the termination of
5 such contracts shall be paid from the helium production
6 fund established under section 6(f).

7 **“SEC. 5. FEES FOR STORAGE, TRANSPORTATION AND WITH-**
8 **DRAWAL.**

9 “Whenever the Secretary provides helium storage,
10 withdrawal, or transportation services to any person, the
11 Secretary is authorized and directed to impose fees on
12 such person to reimburse the Secretary for the full costs
13 of providing such storage, transportation, and withdrawal.
14 All such fees received by the Secretary shall be treated
15 as moneys received under this Act for purposes of section
16 6(f).”.

17 **SEC. 303. SALE OF CRUDE HELIUM.**

18 Section 6 is amended as follows:

19 (1) Subsection (a) is amended by striking out
20 “from the Secretary” and inserting “from persons
21 who have entered into enforceable contracts to pur-
22 chase an equivalent amount of crude helium from
23 the Secretary”.

24 (2) Subsection (b) is amended by inserting
25 “crude” before “helium” and by adding the follow-

1 ing at the end thereof: “Except as may be required
2 by reason of subsection (a), sales of crude helium
3 under this section shall be in amounts as the Sec-
4 retary determines, in consultation with the helium
5 industry, necessary to carry out this subsection with
6 minimum market disruption.

7 (3) Subsection (c) is amended by inserting
8 “crude” before “helium” after the words “Sales of”
9 and by striking “together with interest as provided
10 in subsection” and all that follows down through the
11 period at the end of such subsection and inserting
12 the following:

13 “all funds required to be repaid to the United States as
14 of October 1, 1994 under this section (hereinafter referred
15 to as ‘repayable amounts’). The price at which crude he-
16 lium is sold by the Secretary shall not be less than the
17 amount determined by the Secretary as follows:

18 “(1) Divide the outstanding amount of such re-
19 payable amounts by the volume (in mcf) of crude he-
20 lium owned by the United States and stored in the
21 Bureau of Mines Cliffside Field at the time of the
22 sale concerned.

23 “(2) Adjust the amount determined under para-
24 graph (1) by the Consumer Price Index for years be-
25 ginning after December 31, 1994.”.

1 (4) Subsection (d) is amended to read as fol-
2 lows:

3 “(d) EXTRACTION OF HELIUM FROM DEPOSITS ON
4 FEDERAL LANDS.—All moneys received by the Secretary
5 from the sale or disposition of helium on Federal lands
6 shall be paid to the Treasury and credited against the
7 amounts required to be repaid to the Treasury under sub-
8 section (c) of this section.”.

9 (5) Subsection (e) is repealed.

10 (6) Subsection (f) is amended by inserting
11 “(1)” after “(f)” and by adding the following at the
12 end thereof:

13 “(2) Within 7 days after the commencement of each
14 fiscal year after the disposal of the facilities referred to
15 in section 4(c), all amounts in such fund in excess of
16 \$2,000,000 (or such lesser sum as the Secretary deems
17 necessary to carry out this Act during such fiscal year)
18 shall be paid to the Treasury and credited as provided in
19 paragraph (1). Upon repayment of all amounts referred
20 to in subsection (c), the fund established under this sec-
21 tion shall be terminated and all moneys received under this
22 Act shall be deposited in the Treasury as General Reve-
23 nues.”.

24 **SEC. 304. ELIMINATION OF STOCKPILE.**

25 Section 8 is amended to read as follows:

1 **“SEC. 8. ELIMINATION OF STOCKPILE.**

2 “(a) REVIEW OF RESERVES.—The Secretary shall re-
3 view annually the known helium reserves in the United
4 States and make a determination as to the expected life
5 of the domestic helium reserves (other than federally
6 owned helium stored at the Cliffside Reservoir) at that
7 time.

8 “(b) Sales.—Not later than January 1, 2005, the
9 Secretary shall commence making sales of crude helium
10 from helium reserves owned by the United States in such
11 amounts as may be necessary to dispose of all such helium
12 reserves in excess of 600 million cubic feet (mcf) by Janu-
13 ary 1, 2015. The sales shall be at such times and in such
14 lots as the Secretary determines, in consultation with the
15 helium industry, to be necessary to carry out this sub-
16 section with minimum market disruption. The price for
17 all such sales, as determined by the Secretary in consulta-
18 tion with the helium industry, shall be such as will ensure
19 repayment of the amounts required to be repaid to the
20 Treasury under section 6(c).

21 “(c) DISCOVERY OF ADDITIONAL RESERVES.—The
22 discovery of additional helium reserves shall not affect the
23 duty of the Secretary to make sales of helium as provided
24 in subsection (b), as the case may be.”.

25 **SEC. 305. REPEAL OF AUTHORITY TO BORROW.**

26 Sections 12 and 15 are repealed.

1 **TITLE IV—USE OR DISPOSAL OF**
 2 **FEDERAL NATURAL RESOURCES**

3 **SEC. 401. ANNUAL DOMESTIC LIVESTOCK GRAZING FEE.**

4 Section 401 of the Federal Land Policy and Manage-
 5 ment Act of 1976 (43 U.S.C. 1751) is hereby amended
 6 by adding at the end the following new subsections:

7 “(c)(1) Notwithstanding any other provision of law,
 8 the Secretary of Agriculture, with respect to National For-
 9 est lands in the 16 contiguous Western States (except Na-
 10 tional Grasslands) administered by the United States For-
 11 est Service where domestic livestock grazing is permitted
 12 under applicable law, and the Secretary of the Interior
 13 with respect to public domain lands administered by the
 14 Bureau of Land Management where domestic livestock
 15 grazing is permitted under applicable law, shall establish
 16 beginning with the grazing season which commences on
 17 March 1, 1996, an annual domestic livestock grazing fee
 18 equal to fair market value: *Provided*, That the fee charged
 19 for any given year shall not increase nor decrease by more
 20 than 33.3 percent from the previous year’s grazing fee.

21 “(2)(A) For purposes of this subsection, the term
 22 ‘fair market value’ is defined as follows:

$$\text{Fair Market Value} = \frac{\text{Appraised Base Value} \times \text{Forage Value Index}}{100}$$

23 “(B) For the purposes of subparagraph (A)—

1 “(i) the term ‘Forage Value Index’ means the
2 Forage Value Index (FVI) computed annually by the
3 Economic Research Service, United States Depart-
4 ment of Agriculture, and set with the 1996 FVI
5 equal to 100; and

6 “(ii) the term ‘Appraised Base Value’ means
7 the 1983 Appraisal Value conclusions for mature
8 cattle and horses (expressed in dollars per head or
9 per month), as determined in the 1986 report pre-
10 pared jointly by the Secretary of Agriculture and the
11 Secretary of the Interior entitled ‘Grazing Fee Re-
12 view and Evaluation’, dated February 1986, on a
13 westwide basis using the lowest appraised value of
14 the pricing areas adjusted for advanced payment
15 and indexed to 1996.

16 “(3) Executive Order No. 12548, dated February 14,
17 1986, shall not apply to grazing fees established pursuant
18 to this Act.

19 “(d) The grazing advisory boards established pursu-
20 ant to Secretarial action, notice of which was published
21 in the Federal Register on May 14, 1986 (51 Fed. Reg.
22 17874), are hereby abolished, and the advisory functions
23 exercised by such boards, shall, after the date of enact-
24 ment of this sentence, be exercised only by the appropriate
25 councils established under this section.

1 “(e) Funds appropriated pursuant to section 5 of the
 2 Public Rangelands Improvement Act of 1978 (43 U.S.C.
 3 1904) or any other provision of law related to disposition
 4 of the Federal share of receipts from fees for grazing on
 5 public domain lands or National Forest lands in the 16
 6 contiguous western States shall be used for restoration
 7 and enhancement of fish and wildlife habitat, for restora-
 8 tion and improved management of riparian areas, and for
 9 implementation and enforcement of applicable land man-
 10 agement plans, allotment plans, and regulations regarding
 11 the use of such lands for domestic livestock grazing. Such
 12 funds shall be distributed as the Secretary concerned
 13 deems advisable after consultation and coordination with
 14 the advisory councils established pursuant to section 309
 15 of this Act and other interested parties.”.

16 **SEC. 402. ELIMINATION OF BELOW-COST TIMBER SALES OF**
 17 **TIMBER FROM NATIONAL FOREST SYSTEM**
 18 **LANDS.**

19 (a) IN GENERAL.—The National Forest Management
 20 Act of 1976 is amended by inserting after section 14 (16
 21 U.S.C. 472a) the following new section:

22 **“SEC. 14A. ELIMINATION OF BELOW-COST TIMBER SALES**
 23 **FROM NATIONAL FOREST SYSTEM LANDS.**

24 “(a) REQUIREMENT THAT SALE REVENUES EXCEED
 25 COSTS.—On and after October 1, 2001, in appraising tim-

1 ber and setting a minimum bid for trees, portions of trees,
2 or forest products located on National Forest System
3 lands proposed for sale under section 14 or other provision
4 of law, the Secretary of Agriculture shall ensure that the
5 estimated cash returns to the United States Treasury
6 from each sale exceed the estimated costs to be incurred
7 by the Federal Government in preparation or as a result
8 of that sale.

9 “(b) COSTS TO BE CONSIDERED.—For purposes of
10 estimating under this section the costs to be incurred by
11 the Federal Government from each timber sale, the Sec-
12 retary shall assign to the sale the following costs:

13 “(1) The actual appropriated expenses for sale
14 preparation and harvest administration incurred or
15 to be incurred by the Federal Government from the
16 sale and the payments to counties to be made as a
17 result of the sale.

18 “(2) A portion of the annual timber resource
19 planning costs, silvicultural examination costs, other
20 resource support costs, road design and construction
21 costs, road maintenance costs, transportation plan-
22 ning costs, appropriated reforestation costs, timber
23 stand improvement costs, forest genetics costs, gen-
24 eral administrative costs (including administrative
25 costs of the national and regional offices of the For-

1 est Service), and facilities construction costs of the
2 Federal Government directly or indirectly related to
3 the timber harvest program conducted on National
4 Forest System lands.

5 “(c) METHOD OF ALLOCATING COSTS.—The Sec-
6 retary shall allocate the costs referred to in subsection
7 (b)(2) to each unit of the National Forest System, and
8 each proposed timber sale in such unit, on the basis of
9 harvest volume.

10 “(d) TRANSITIONAL REQUIREMENTS.—To ensure the
11 elimination of all below-cost timber sales by the date speci-
12 fied in subsection (a), the Secretary shall progressively re-
13 duce the number and size of below-cost timber sales on
14 National Forest System lands as follows:

15 “(1) In fiscal years 1996, 1997, and 1998, the
16 quantity of timber sold in below-cost timber sales on
17 National Forest System lands shall not exceed 75
18 percent of the quantity of timber sold in such sales
19 in the preceding fiscal year.

20 “(2) In fiscal year 1999, the quantity of timber
21 sold in below-cost timber sales on National Forest
22 System lands shall not exceed 65 percent of the
23 quantity of timber sold in such sales in fiscal year
24 1998.

1 “(3) In fiscal year 2000, the quantity of timber
2 sold in below-cost timber sales on National Forest
3 System lands shall not exceed 50 percent of the
4 quantity of timber sold in such sales in the fiscal
5 year 1999.

6 “(e) BELOW-COST TIMBER SALE.—For purposes of
7 this section, the term ‘below-cost timber sale’ means a sale
8 of timber in which the costs to be incurred by the Federal
9 Government exceed the cash returns to the United States
10 Treasury.”.

11 (b) FINDINGS.—Section 2 of the Forest and Range-
12 land Renewable Resources Planning Act of 1974 (16
13 U.S.C. 1600) is amended—

14 (1) by striking “and” at the end of paragraph
15 (6);

16 (2) by striking the period at the end of para-
17 graph (7) and inserting “; and”; and

18 (3) by adding at the end the following new
19 paragraph:

20 “(8) the practice of selling timber from Na-
21 tional Forest System lands for less than the cost to
22 the Federal Government of growing the timber and
23 preparing the timber for sale is not in the best inter-
24 ests of the United States, and such below-cost sales
25 should be eliminated in an orderly manner to achieve

1 a more economically and environmentally sound tim-
2 ber program for the National Forest System.”.

3 **SEC. 403. TIMBERLAND SUITABILITY.**

4 Section 6(k) of the Forest and Rangeland Renewable
5 Resources Planning Act of 1974 (16 U.S.C. 1604(k)) is
6 amended to read as follows:

7 “(k) DETERMINATION OF SUITABILITY OF LANDS
8 FOR TIMBER PRODUCTION.—

9 “(1) DETERMINATION REQUIRED.—In revising
10 land management plans developed pursuant to this
11 section, the Secretary shall identify lands within the
12 management area that are not suited for timber pro-
13 duction based on physical, economic, or other rel-
14 evant factors. The Secretary shall review the identi-
15 fications made under this paragraph during each re-
16 vision of the forest plan.

17 “(2) EVIDENCE OF ECONOMIC
18 UNSUITABILITY.—The Secretary shall identify lands
19 as economically unsuitable for timber production
20 under paragraph (1) if—

21 “(A) the expected cash returns to the
22 United States Treasury that would result from
23 the sale of standing timber on the lands do not
24 exceed the expected costs that would be in-

1 curred by the Federal Government in prepara-
2 tion or as a result of such sales; or

3 “(B) the expected cash returns to the
4 United States Treasury that would result from
5 the sale of subsequent timber stands on the
6 lands do not exceed the expected costs that
7 would be incurred by the Federal Government
8 in preparation or as a result of such sales.

9 “(3) COSTS TO BE CONSIDERED.—For purposes
10 of estimating under paragraph (2) the costs to be in-
11 curred by the Federal Government from timber sales
12 conducted on the lands being reviewed, the Secretary
13 shall assign to sales on such lands the following
14 costs:

15 “(A) The appropriated expenses for sale
16 preparation and harvest administration that
17 would be incurred by the Federal Government
18 from such sales and the payments to counties
19 that would be made as a result of such sales.

20 “(B) A portion of the annual timber re-
21 source planning costs, silvicultural examination
22 costs, other resource support costs, road design
23 and construction costs, road maintenance costs,
24 transportation planning costs, appropriated re-
25 forestation costs, timber stand improvement

1 costs, forest genetics costs, general administra-
2 tive costs (including administrative costs of the
3 national and regional offices of the Forest Serv-
4 ice), and facilities construction costs of the Fed-
5 eral Government directly or indirectly related to
6 the timber harvest program conducted on Na-
7 tional Forest System lands.

8 “(4) METHOD OF ALLOCATING COSTS.—The
9 Secretary shall allocate the costs referred to in para-
10 graph (3)(B) to each unit of the National Forest
11 System on the basis of harvest volume.

12 “(5) PROHIBITION ON TIMBER HARVESTS ON
13 UNSUITABLE LANDS.—In the case of lands identified
14 under paragraph (1) as unsuitable for timber pro-
15 duction, no timber harvesting shall occur on such
16 lands for a period of 10 years or the life of the plan,
17 whichever is greater.

18 “(6) DEFINITIONS.—For purposes of this sub-
19 section:

20 “(A) The term ‘standing timber’ means an
21 existing stand of timber that has not been har-
22 vested.

23 “(B) The term ‘subsequent timber stand’
24 means a regenerated stand of timber produced

1 on land from which standing timber has been
2 harvested.”.

3 **SEC. 404. COST OF WATER USED TO PRODUCE SURPLUS**
4 **CROPS.**

5 Section 9 of the Reclamation Project Act of 1939 (43
6 U.S.C. 485h) is amended by inserting at the end thereof
7 the following new subsection:

8 “(g)(1) Any contract entered into under authority of
9 this section or any other provision of Federal reclamation
10 law shall require that the organization agree by contract
11 with the Secretary to pay full cost for the delivery of water
12 used in the production of any crop of an agricultural com-
13 modity for which an acreage reduction program is in effect
14 under the provisions of the Agricultural Act of 1949 (7
15 U.S.C. 1421 et seq.).

16 “(2) The Secretary shall announce the amount of the
17 full cost payment for the succeeding year on or before July
18 1 of each year.

19 “(3) As used in this subsection, the term ‘full cost’
20 shall have the meaning given such term in paragraph (3)
21 of section 202 of the Reclamation Reform Act of 1982
22 (43 U.S.C. 390bb(3)).

23 “(4) Paragraph (1) shall apply to any contract en-
24 tered into or amended after the date of enactment of this
25 subsection.”.

1 **SEC. 405. REDUCTION IN MAXIMUM AMOUNT OF PAYMENTS**
2 **UNDER AGRICULTURAL ASSISTANCE PRO-**
3 **GRAMS TO REFLECT RECEIPT OF FEDERAL**
4 **IRRIGATION WATER.**

5 (a) PRICE SUPPORT PROGRAMS.—Title X of the
6 Food Security Act of 1985 is amended—

7 (1) by redesignating sections 1001D (7 U.S.C.
8 1308–4) and 1001E (7 U.S.C. 1308–5) as sections
9 1001E and 1001F, respectively; and

10 (2) by inserting after section 1001C (7 U.S.C.
11 1308–3) the following new section:

12 **“SEC. 1001D. REDUCTION OF PAYMENT LIMITATIONS TO**
13 **REFLECT RECEIPT OF FEDERAL IRRIGATION**
14 **WATER.**

15 “(a) REDUCTION OF PAYMENT LIMITATIONS RE-
16 QUIRED.—If a person subject to section 1001 receives
17 Federal irrigation water for agricultural purposes from the
18 operation of a Federal reclamation project, the payment
19 limitations specified in paragraphs (1) and (2) of such sec-
20 tion and applicable to such person shall be reduced for
21 the year in which such person receives irrigation water.
22 The amount of the reduction shall be equal to the total
23 value during that year of the subsidy portion of the con-
24 tract with such person for the delivery of the irrigation
25 water.

1 “(b) DETERMINATION OF SUBSIDY PORTION OF
 2 WATER CONTRACT.—The subsidy portion of an irrigation
 3 water delivery contract is equal to the amount by which
 4 full cost for the delivery of the irrigation water exceeds
 5 the actual contract price for the delivery of the water.

6 “(c) DEFINITIONS.—For purposes of this section, the
 7 terms ‘contract’, ‘full cost’, ‘irrigation water’, and ‘project’
 8 have the meanings given such terms in section 202 of the
 9 Reclamation Reform Act of 1982 (43 U.S.C. 390bb).”.

10 (b) NONINSURED CROP DISASTER ASSISTANCE.—
 11 Subsection (h) of section 519 of the Federal Crop Insur-
 12 ance Act (7 U.S.C. 1519), as added by section 112 of the
 13 Federal Crop Insurance Reform Act of 1994 (title I of
 14 Public Law 103–354; 108 Stat. 3202), is amended—

15 (1) by redesignating paragraph (5) as para-
 16 graph (6); and

17 (2) by inserting after paragraph (4) the follow-
 18 ing new paragraph:

19 “(5) EFFECT OF RECEIPT OF IRRIGATION
 20 WATER.—

21 “(A) REDUCTION OF PAYMENT LIMITA-
 22 TION.—If a person who receives payments
 23 under this title also receives, during the same
 24 year, Federal irrigation water for agricultural
 25 purposes from the operation of a Federal rec-

1 lamation project, the payment limitation speci-
2 fied in paragraph (2) for such person shall be
3 reduced for that year. The amount of the re-
4 duction shall be equal to the total value during
5 that year of the subsidy portion of the contract
6 with such person for the delivery of the irriga-
7 tion water.

8 “(B) DETERMINATION OF SUBSIDY POR-
9 TION OF WATER CONTRACT.—The subsidy por-
10 tion of an irrigation water delivery contract is
11 equal to the amount by which full cost for the
12 delivery of the irrigation water exceeds the ac-
13 tual contract price for the delivery of the water.

14 “(C) DEFINITIONS.—For purposes of this
15 paragraph, the terms ‘contract’, ‘full cost’, ‘irri-
16 gation water’, and ‘project’ have the meanings
17 given such terms in section 202 of the Reclama-
18 tion Reform Act of 1982 (43 U.S.C. 390bb).”.

19 (c) CONFORMING AMENDMENTS.—Section 1001 of
20 the Food Security Act of 1985 (7 U.S.C. 1308) is amend-
21 ed by striking “through 1001C” in paragraphs (1)(A),
22 (1)(B), (2)(A), and (5)(A) and inserting “through
23 1001D”.

1 **SEC. 406. OFF BUDGET EXPENDITURES.**

2 (a) KNUTSON-VANDENBERG FUND.—Section 3 of
3 the Act of June 9, 1930 (commonly known as the
4 Knutson-Vandenberg Act; 16 U.S.C. 576b), is amended
5 by striking “and shall constitute a special fund, which is
6 hereby appropriated and made available until expended,”
7 in the second sentence and inserting “and are authorized
8 to be appropriated”.

9 (b) DEPOSITS FROM BRUSH DISPOSAL.—The para-
10 graph relating to deposits from brush disposal under the
11 heading “FOREST SERVICE” in the Act of August 11, 1916
12 (39 Stat. 462; 16 U.S.C. 490), is amended by striking
13 “and constitute a special fund, which is hereby appro-
14 priated and shall remain available until expended” and in-
15 serting “and are authorized to be appropriated for the
16 purpose of disposing of such brush and other debris”.

17 (c) NATIONAL FORESTS ROADS AND TRAILS.—Sec-
18 tion 7 of Public Law 88–657 (16 U.S.C. 538) is amended
19 by striking “may be placed in a fund to be available” and
20 inserting “are authorized to be appropriated”.

21 (d) TIMBER SALVAGE SALE FUND.—Section 303(d)
22 of Public Law 96–451 (16 U.S.C. 1606a) is amended by
23 inserting “, subject to annual appropriations,” after “The
24 Secretary of Agriculture”.

1 **SEC. 407. DEPOSIT OF TAYLOR GRAZING ACT RECEIPTS IN**
2 **TREASURY.**

3 Section 10 of the Taylor Grazing Act (43 U.S.C.
4 315i) is amended by striking all after “miscellaneous re-
5 ceipts” and inserting in lieu thereof a period.

6 **SEC. 408. REPEAL OF LIVESTOCK FEED ASSISTANCE PRO-**
7 **GRAM.**

8 (a) REPEAL.—The Emergency Livestock Feed As-
9 sistance Act of 1988 (title VI of the Agricultural Act of
10 1949; 7 U.S.C. 1471–1471j) is repealed.

11 (b) EFFECT OF REPEAL ON APPROVED APPLICA-
12 TIONS FOR ASSISTANCE.—The repeal of the Emergency
13 Livestock Feed Assistance Act of 1988 by subsection (a)
14 shall not affect the provision of payments or benefits
15 under such Act pursuant to a completed application ap-
16 proved by the Secretary of Agriculture before the date of
17 the enactment of this Act, and the Emergency Livestock
18 Feed Assistance Act of 1988, as in effect on the day before
19 the date of the enactment of this Act, shall continue to
20 apply to the provision of payments or benefits pursuant
21 to such an application.

22 **SEC. 409. COMMUNICATION PERMITS.**

23 (a) IN GENERAL.—No permit, lease, or authorization
24 for the use of any area of the public lands or National
25 Forests for communication uses, including but not limited
26 to radio and television broadcast, mobile radio, cellular

1 telephone, or microwave relay facilities, shall remain in
2 force and effect after October 1, 1995, unless, by such
3 date, and by October 1 of each year thereafter, the holder
4 of such permit, lease, or authorization pays to the Sec-
5 retary of the Interior or the Secretary of Agriculture, as
6 appropriate, an amount equal to the fair market value,
7 as determined by such Secretary, of the right to use and
8 occupy such area for such communication uses.

9 (b) DEFINITION.—For the purposes of this section,
10 the term “public lands” shall have the same meaning as
11 defined in section 103(e) of the Federal Land Policy Man-
12 agement Act of 1976 (43 U.S.C. 1702(e)).

13 **SEC. 410. OIL AND GAS RENTALS.**

14 The Mineral Leasing Act is amended as follows:

15 (1) In section 14 by striking out “a rental of
16 \$1 per acre” and inserting “a rental established by
17 the Secretary of the Interior” and by adding the fol-
18 lowing at the end thereof: “The Secretary shall es-
19 tablish fair market value rental fees under this sec-
20 tion based upon the rental fees which would be
21 charged in arm’s length transactions for comparable
22 leases of oil and gas resources on non-Federal land.”

23 (2) In section 17(d) by striking out “rental of
24 not less than \$1.50 per acre per year for the first
25 through fifth years of the lease and not less than \$2

1 per acre per year for each year thereafter” and in-
2 sserting “rental established by the Secretary of the
3 Interior” and by adding the following at the end
4 thereof: “The Secretary shall establish fair market
5 value rental fees under this section based upon the
6 rental fees which would be charged in arms length
7 transactions for comparable leases of oil and gas re-
8 sources on non-Federal land.”

9 (3) In section 21(a) by striking out “rental,
10 payable at the beginning of each year, at the rate of
11 50 cents per acre per annum, for the lands included
12 in the lease,” and inserting “rental established by
13 the Secretary of the Interior” and by adding the fol-
14 lowing at the end thereof: “The Secretary shall es-
15 tablish fair market value rental fees under this sec-
16 tion based upon the rental fees which would be
17 charged in arms length transactions for comparable
18 leases on non-Federal land.”

19 (4) In section 31(e)(2) by striking “rate of not
20 less than \$10 per acre per year, or the inclusion in
21 a reinstated lease issued pursuant to the provisions
22 of section 17(c) of this Act of a requirement that fu-
23 ture rentals shall be at a rate not less than \$5 per
24 acre per year” and inserting “fair market value rate
25 (but not less than \$10 per acre per year)”.

1 (5) In section 31(f)(3) by striking out “of not
2 less than \$5 per acre per year” and inserting “es-
3 tablished by the Secretary at fair market value
4 based upon the rental fees which would be charged
5 in arms length transactions for comparable leases on
6 non-Federal land.”

7 **TITLE V—NATIONAL PARK**
8 **CONCESSIONS**

9 **SEC. 501. FINDINGS AND POLICY.**

10 (a) FINDINGS.—In furtherance of the Act of August
11 25, 1916 (39 Stat. 535), as amended (16 U.S.C. 1, 2–
12 4), which directs the Secretary of the Interior to admin-
13 ister areas of the National Park System in accordance
14 with the fundamental purpose of conserving their scenery,
15 wildlife, natural and historic objects, and providing for
16 their enjoyment in a manner that will leave them
17 unimpaired for the enjoyment of future generations, the
18 Congress finds that the preservation and conservation of
19 park resources and values requires that such public ac-
20 commodations, facilities, and services within such areas as
21 the Secretary, in accordance with this Act, determines nec-
22 essary and appropriate—

23 (1) should be provided only under carefully con-
24 trolled safeguards against unregulated and indis-

1 criminate use so that visitation will not unduly im-
2 pair park resources and values; and

3 (2) should be limited to locations and designs
4 consistent to the highest practicable degree with the
5 preservation and conservation of park resources and
6 values.

7 (b) POLICY.—It is the policy of the Congress that—

8 (1) development on Federal lands within a park
9 shall be limited to those facilities that the Secretary
10 determines are necessary and appropriate for public
11 use and enjoyment of the park in which such facili-
12 ties and services are located;

13 (2) development within a park should be con-
14 sistent to the highest practicable degree with the
15 preservation and conservation of the park's re-
16 sources and values;

17 (3) park facilities and services the Secretary de-
18 termines suitable to be provided by parties other
19 than the Secretary should be provided by private
20 persons, corporations, or other entities, except when
21 no private interest is qualified and willing to provide
22 such facilities and services;

23 (4) if the Secretary determines that develop-
24 ment should occur within a park, such development
25 shall be designed, located, and operated in a manner

1 that is consistent with the purposes for which such
2 park was established;

3 (5) the right to provide such services and to de-
4 velop or utilize facilities should be awarded to the
5 person, corporation, or entity submitting the best
6 proposal through a competitive selection process;
7 and

8 (6) such facilities or services should be provided
9 to the public at reasonable rates.

10 **SEC. 502. DEFINITIONS.**

11 As used in this title:

12 (1) The term “concessioner” means a person,
13 corporation, or other entity to whom a concession
14 contract has been awarded.

15 (2) the term “concession contract” means a
16 contract, or permit, (but not an authorization issued
17 pursuant to section 504(b) of this title) to provide
18 facilities or services, or both, at a park.

19 (3) The term “facilities” means improvements
20 to real property within parks used to provide accom-
21 modations, facilities, or services to park visitors.

22 (4) The term “franchise fee” means the fee re-
23 quired by a concession contract to be paid to the
24 United States in consideration for the privileges af-
25 forded by such contract to the holder thereof, which

1 may be expressed as a percentage of revenues de-
2 rived by the contract holder from activities author-
3 ized by the contract, and which shall be in addition
4 to fees required to be paid to the United States for
5 the use of federally-owned buildings or other facili-
6 ties.

7 (5) The term “fund” means the Park Improve-
8 ment Fund established under section 8(b).

9 (6) The term “park” means a unit of the Na-
10 tional Park System.

11 (7) The term “proposal” means the complete
12 proposal for a concession contract offered by a po-
13 tential or existing concessioner in response to the
14 minimum requirements for the contract established
15 by the Secretary.

16 (8) The term “Secretary” means the Secretary
17 of the Interior.

18 **SEC. 503. REPEAL OF CONCESSIONS POLICY ACT OF 1965.**

19 (a) REPEAL.—The Act of October 9, 1965, Public
20 Law 89–249 (79 Stat. 969, 16 U.S.C. 20–20g), entitled
21 “An Act relating to the establishment of concession poli-
22 cies in the areas administered by National Park Service
23 and for other purposes”, is hereby repealed. The repeal
24 of such Act shall not affect the validity of any contract
25 entered into under such Act, but the provisions of this title

1 shall apply to any such contract except to the extent such
2 provisions are inconsistent with the express terms and
3 conditions of the contract. Nothing in this title that is in-
4 consistent with a prospectus issued before January 27,
5 1995, shall apply to the contract with respect to which
6 such prospectus was issued. The Secretary is authorized
7 to award a concession contract prior to promulgation of
8 new regulations to implement this title if the Secretary
9 determines that protection of public health and safety war-
10 rant such action, provided that such contract is consistent
11 with this title.

12 (b) TRANSITION.—Nothing in this Act that is incon-
13 sistent with a prospectus issued before April 1, 1994, shall
14 apply to the contract with respect to which such prospec-
15 tus was issued. The Secretary is authorized to award a
16 concession contract prior to promulgation of new regula-
17 tions to implement this Act if the Secretary determines
18 that protection of public health and safety warrant such
19 action, provided that such contract is consistent with this
20 Act.

21 (c) CONFORMING AMENDMENT.—The fourth sen-
22 tence of section 3 of this Act of August 25, 1916 (16
23 U.S.C. 3; 39 Stat. 535) is amended by striking all through
24 “no natural” and inserting in lieu thereof, “No natural”.

1 **SEC. 504. CONCESSION CONTRACTS AND OTHER AUTHOR-**
2 **IZATIONS.**

3 (a) CONCESSIONS.—(1) Subject to the findings and
4 policy stated in section 501 of this title and the provisions
5 of this section, the Secretary may award concession con-
6 tracts that authorize private persons, corporations, or
7 other entities to provide services to park visitors and to
8 utilize facilities if the Secretary determines that such
9 award is the appropriate means for such authorization.

10 (2) Concession contracts shall be awarded only to the
11 extent that the Secretary finds that the services to be pro-
12 vided and the facilities to be utilized pursuant to each such
13 contract are necessary and appropriate for the accommo-
14 dation of visitors to a park.

15 (3) The provision of services and the utilization of
16 facilities pursuant to concession contracts shall be consist-
17 ent with all applicable requirements of law, including laws
18 relating generally to the administration and management
19 of units of the National Park Service, and with the general
20 management plan, concessions plan, and other relevant
21 plans developed by the Secretary for the relevant park.

22 (b) OTHER AUTHORIZATIONS.—(1) To the extent
23 specified in this subsection, the Secretary, upon request,
24 may authorize a private person, corporation, or other en-
25 tity to provide services to park visitors otherwise than by
26 award of a concession contract.

1 (2)(A) The authority of this subsection may be used
2 only to authorize provision of services to park visitors that
3 the Secretary determines have minimal impact on park re-
4 sources and values and will be consistent with the pur-
5 poses for which the park was established and with all ap-
6 plicable management plans for such park.

7 (B) The Secretary shall require payment of a reason-
8 able fee for issuance of an authorization under this sub-
9 section. The fees shall remain available without further
10 appropriation to be used to recover the costs of managing
11 and administering this subsection.

12 (C) The Secretary shall require that the provision of
13 services under such an authorization be accomplished in
14 a manner consistent to the highest practicable degree with
15 the preservation and conservation of park resources and
16 values.

17 (D) The Secretary shall take appropriate steps to
18 limit the liability of the United States arising from the
19 provision of services under such an authorization.

20 (E) The Secretary shall have no authority under this
21 subsection to issue more authorizations than are consist-
22 ent with the preservation and proper management of park
23 resources and values, and shall establish such other condi-
24 tions for issuance of such an authorization as the Sec-
25 retary determines appropriate for protection of visitors,

1 provision of adequate and appropriate visitor services, and
2 protection and proper management of the resources and
3 values of the National Park System.

4 (3) Any authorization issued under this subsection
5 shall be limited to commercial operations with annual
6 gross revenues of not more than \$25,000 resulting from
7 the services provided within the park pursuant to such au-
8 thorization.

9 (4) The term of any authorization issued under this
10 subsection shall not exceed 2 years.

11 (5) An entity seeking or obtaining an authorization
12 pursuant to this subsection shall not be precluded from
13 also submitting proposals for concession contracts.

14 **SEC. 505. COMPETITIVE SELECTION PROCESS.**

15 (a) IN GENERAL.—(1) Except as provided in sub-
16 section (b), and consistent with the provisions of sub-
17 section (g), any concession contract entered into pursuant
18 to this title shall be awarded to the person submitting the
19 best proposal, as determined by the Secretary through the
20 competitive selection process specified in this section.

21 (2) Within 180 days after the date of enactment of
22 this title, the Secretary shall promulgate appropriate regu-
23 lations establishing a process to implement this section.

24 (3) The regulations referred to in paragraph (2) shall
25 include provisions for establishing a method or procedure

1 for the resolution of disputes between the Secretary and
2 a concessioner in those instances where the Secretary has
3 been unable to meet conditions or requirements or provide
4 such services, if any, as set forth in a prospectus pursuant
5 to sections 505(c)(2) (D) and (E).

6 (b) TEMPORARY CONTRACT.—Notwithstanding the
7 provisions of subsection (a), the Secretary may award on
8 a noncompetitive basis a temporary concession contract if
9 the Secretary determines such an award to be necessary
10 in order to avoid interruption of services to the public at
11 a park. Prior to making such a determination, the Sec-
12 retary shall take all reasonable and appropriate steps to
13 consider alternative actions to avoid such interruptions.

14 (c) PROSPECTUS.—(1) Prior to soliciting proposals
15 for a concession contract at a park, the Secretary shall
16 prepare a prospectus soliciting proposals, shall publish a
17 notice of its availability at least once in such local or na-
18 tional newspapers or trade publications as the Secretary
19 determines appropriate, and shall make such prospectus
20 available upon request to all interested parties.

21 (2) The prospectus shall include, but need not be lim-
22 ited to, the following information:

23 (A) The minimum requirements for such con-
24 tract, as set forth in subsection (d).

1 (B) The terms and conditions of the existing
2 concession contract awarded for such park, if any,
3 including all fees and other forms of compensation
4 provided to the United States by the concessioner.

5 (C) Other authorized facilities or services which
6 may be included in a proposal.

7 (D) Facilities and services to be provided by the
8 Secretary to the concessioner, if any, including but
9 not limited to, public access, utilities, and buildings.

10 (E) Minimum public services to be offered with-
11 in a park by the Secretary, including but not limited
12 to, interpretive programs, campsites, and visitor cen-
13 ters.

14 (F) Such other information related to the con-
15 cessions operation as is provided by the Secretary
16 pursuant to a concession contract or is otherwise
17 available to the Secretary, as the Secretary deter-
18 mines is necessary to allow for the submission of
19 competitive proposals.

20 (d) MINIMUM PROPOSAL REQUIREMENTS.—(1) No
21 proposal shall be considered which fails to meet the mini-
22 mum requirements included in the prospectus. Such mini-
23 mum requirements shall include payment to the United
24 States of a franchise fee and shall also include, but need
25 not be limited to, the following:

1 (A) The minimum acceptable franchise fee, fees
2 for use of any Federal buildings or other facilities,
3 and any other fees to be paid to the United States.

4 (B) The duration of the contract.

5 (C) Any facilities, services, or capital invest-
6 ments required to be provided by the concessioner.

7 (D) Measures that will be required in order to
8 ensure the protection and preservation of park re-
9 sources and values.

10 (2) The Secretary may reject any proposal, notwith-
11 standing the amount of franchise fee offered, if the Sec-
12 retary determines that the person, corporation, or entity
13 making such proposal is not qualified, is likely to provide
14 unsatisfactory service, or that the proposal is not suffi-
15 ciently responsive to the objectives of protecting and pre-
16 serving park resources and of providing necessary and ap-
17 propriate facilities or services to the public at reasonable
18 rates.

19 (3) If all proposals submitted to the Secretary either
20 fail to meet the minimum requirements or are rejected by
21 the Secretary, the Secretary shall establish new minimum
22 contract requirements and re-initiate the competitive se-
23 lection process pursuant to this section.

1 (e) SELECTION OF BEST PROPOSAL.—(1) In select-
2 ing the best proposal, the Secretary shall consider the fol-
3 lowing principal factors:

4 (A) The responsiveness of the proposal to the
5 objectives of protecting and preserving park re-
6 sources and of providing necessary and appropriate
7 facilities and services to the public at reasonable
8 rates.

9 (B) The experience, expertise, and related back-
10 ground of the person, corporation, or other entity
11 submitting the proposal, including whether the per-
12 son, corporation, or entity submitted the proposal
13 has established a record of outstanding performance
14 in providing the same or similar facilities or services.

15 (C) The financial capability of the person, cor-
16 poration, or entity submitting the proposal.

17 (D) The proposed franchise fee: *Provided*, That
18 consideration of revenue to the United States shall
19 be subordinate to the objectives of protecting and
20 preserving park resources including cultural re-
21 sources, and of providing necessary and appropriate
22 facilities or services to the public at reasonable rates.

23 (2) The Secretary may also consider such secondary
24 factors as the Secretary deems appropriate.

1 (3) In developing regulations to implement this title,
2 the Secretary shall consider the extent to which plans for
3 employment of Indians (including Native Alaskans) and
4 involvement of businesses owned by Indians, Indian tribes,
5 or Native Alaskans in the operation of concession con-
6 tracts should be identified as a factor in the selection of
7 a best offer under this section.

8 (f) CONGRESSIONAL NOTIFICATION.—(1) The Sec-
9 retary shall submit any proposed concession contract with
10 anticipated annual gross receipts in excess of \$1,000,000
11 (indexed to 1993 constant dollars) or a duration in excess
12 of ten years to the Committee on Energy and Natural Re-
13 sources of the United States Senate and the Committee
14 on Resources of the United States House of Representa-
15 tives.

16 (2) The Secretary shall not award any such proposed
17 contract until at least 60 days subsequent to the submis-
18 sion thereof to both Committees.

19 (g) NO PREFERENTIAL RIGHT OF RENEWAL.—(1)
20 Except as provided in paragraph (2), the Secretary shall
21 not grant a preferential right to a concessioner to renew
22 a concession contract executed pursuant to this title.

23 (2)(A) The Secretary shall grant a preferential right
24 of renewal with respect to a concession contract covered

1 by subsection (h) and (i) subject to the requirements of
2 subsection (h) or (i), as appropriate.

3 (B) As used in this paragraph and subsections (h)
4 and (i), the term “preferential right of renewal” means
5 that the Secretary shall allow a concessioner satisfying the
6 requirements of this paragraph the opportunity to match
7 the terms and conditions of any competing proposal which
8 the Secretary determines to be the best offer.

9 (C) A concessioner who exercises a preferential right
10 of renewal in accordance with the requirements of this
11 paragraph shall be entitled to award of the new concession
12 contract with respect to which such right is exercised.

13 (h) OUTFITTING AND GUIDE CONTRACTS.—(1) Ex-
14 cept as provided in subsection (i), the provisions of sub-
15 section (g)(2) shall apply only—

16 (A) to a concession contract—

17 (i) which solely authorizes a concessioner
18 to provide outfitting, guide, river running, or
19 other substantially similar services within a
20 park; and

21 (ii) which does not grant such concessioner
22 any interest in any structure, fixture, or im-
23 provement pursuant to section 11 of this Act;
24 and

1 (B) where the concessioner has been awarded
2 an annual rating of “Excellent” in at least 50 per-
3 cent of the annual ratings during the term of the
4 contract;

5 (C) where the concessioner has not received any
6 annual unsatisfactory ratings during the term of the
7 contract; and

8 (D) where the Secretary determines that the
9 concessioner has submitted a responsive proposal for
10 a new contract which satisfies the minimum require-
11 ments established by the Secretary pursuant to sec-
12 tion 6 of this Act.

13 (2) In granting a preferential right of renewal pursu-
14 ant to subsection (g)(2), the Secretary shall not require
15 concessioner to match any portion of a proposed franchise
16 fee which exceeds by more than 10 percent the minimum
17 fee established by the Secretary in the prospectus for such
18 contract.

19 (3)(A) With respect to a concession contract (or ex-
20 tension thereof) covered by this subsection, which is in ef-
21 fect on the date of enactment of this Act, the provisions
22 of this paragraph shall apply if the holder of such con-
23 tract, under the laws and policies in effect on the day be-
24 fore the date of enactment of this Act, would have been

1 entitled to a preferential right of renewal upon the expira-
2 tion of such contract.

3 (B) Upon the expiration of a concession contract (or
4 extension thereof) covered by this paragraph, the Sec-
5 retary, with respect to the award of a new concession con-
6 tract to provide the same or substantially similar services
7 as those authorized by the previous contract or extension,
8 shall allow the holder of such contract or extension the
9 right to exercise a preferential right of renewal to the
10 same extent as would have been the case under the laws
11 and policies in effect on the day before the date of enact-
12 ment of this Act.

13 (4)(A) In promulgating regulations to implement this
14 subsection, the Secretary shall include a rating category
15 of “Excellent”, and shall establish clear and achievable
16 standards necessary for the award of such rating, includ-
17 ing but not necessarily limited to criteria relating to—

18 (i) protection of the park’s resources and val-
19 ues;

20 (ii) furtherance of the educational, recreational,
21 and other purposes for which the Secretary manages
22 the park; and

23 (iii) the adequacy of services provided to park
24 visitors.

1 (B) The Secretary shall take appropriate steps to en-
2 able all holders of contracts covered by this subsection,
3 and all parties seeking to obtain such contracts, to be
4 aware of the criteria established pursuant to this para-
5 graph.

6 (i) CONTRACTS WITH ANNUAL GROSS RECEIPTS
7 UNDER \$500,000.—(1) The provisions of subsection
8 (g)(2) shall also apply to a concession contract—

9 (A) which the Secretary estimates will result in
10 annual gross receipts of less than \$500,000;

11 (B) where the Secretary has determined that
12 the concessioner has operated satisfactorily during
13 the term of the contract (including any extensions
14 thereof); and

15 (C) that the concessioner has submitted a re-
16 sponsive proposal for a new concession contract
17 which satisfies the minimum requirements estab-
18 lished by the Secretary pursuant to section 6 of this
19 Act.

20 (2) The provisions of this subsection shall not apply
21 to a concession contract covered by subsection (h).

22 **SEC. 506. FRANCHISE FEES.**

23 (a) IN GENERAL.—Franchise fees, however stated,
24 shall not be less than the minimum franchise fee estab-
25 lished by the Secretary for each contract. The minimum

1 franchise fee shall be determined in a manner that will
2 provide the concessioner with a reasonable opportunity to
3 realize a profit on the operation as a whole, commensurate
4 with the capital invested and the obligations assumed.

5 (b) MULTIPLE CONTRACTS WITHIN A PARK.—If
6 multiple concession contracts are awarded to authorize
7 concessioners to provide the same outfitting, guide, river
8 running, or other similar services at the same approximate
9 location within a specific park, the Secretary shall estab-
10 lish a standardized schedule of franchise fees for all such
11 contracts, subject to periodic review and revision by the
12 Secretary.

13 **SEC. 507. USE OF FRANCHISE FEES.**

14 (a) SPECIAL ACCOUNT.—Except as provided in sub-
15 section (b), all receipts including fees for use of federally
16 owned buildings or other facilities collected pursuant to
17 this title shall be covered into a special account established
18 in the Treasury of the United States. Amounts covered
19 into such account in a fiscal year shall be available for
20 expenditure, subject to appropriation, solely as follows:

21 (1) 50 percent shall be allocated among the
22 units of the National Park System in the same pro-
23 portion as franchise fees collected from a specific
24 unit bears to the total amount covered into the ac-
25 count for each fiscal year, to be used for resource

1 management and protection, maintenance activities,
2 interpretation, and research.

3 (2) 50 percent shall be allocated among the
4 units of the National Park System on the basis of
5 need, in a manner to be determined by the Sec-
6 retary, to be used for resource management and pro-
7 tection, maintenance activities, interpretation, and
8 research.

9 (b) PARK IMPROVEMENT FUND.—(1) In lieu of col-
10 lecting all or a portion of the franchise fees that would
11 otherwise be collected pursuant to the concession contract,
12 the Secretary shall, where the Secretary determines it to
13 be practicable, require a concessioner to establish a Park
14 Improvement Fund in which the concessioner shall deposit
15 the franchise fees that would otherwise be required by the
16 contract.

17 (2) The fund shall be maintained by the concessioner
18 in an interest bearing account in a federally insured finan-
19 cial institution. The concessioner shall maintain the fund
20 separately from any other funds or accounts and shall not
21 co-mingle the monies in the fund with any other monies.
22 The Secretary may establish such other terms, conditions,
23 or requirements as the Secretary determines to be nec-
24 essary to ensure the financial integrity of the fund.

1 (3) Monies from the fund, including interest, shall be
2 expended solely for activities and projects within the park
3 which are consistent with the park's general management
4 plan, concessions plan, and other applicable plans, and
5 which the Secretary determines will enhance public use,
6 safety, and enjoyment of the park, including but not lim-
7 ited to projects which directly or indirectly support conces-
8 sion facilities or services required by the concession con-
9 tract, but no expenditure from the fund shall have the ef-
10 fect of creating or increasing any compensable interest of
11 any concessioner in any such facilities. A concessioner
12 shall not be allowed to make any advances or credits to
13 the fund.

14 (4) A concessioner shall not be granted any interest
15 in improvements made from fund expenditures, including
16 any interest granted pursuant to section 310 of this title.

17 (5) Nothing in this subsection shall affect the obliga-
18 tion of a concessioner to insure, maintain, and repair any
19 structure, fixture, or improvement assigned to such con-
20 cessioner and to insure that such structure, fixture, or im-
21 provement fully complies with applicable safety and health
22 laws and regulations.

23 (6) The concessioner shall maintain proper records
24 for all expenditures made from the fund. Such records
25 shall include, but not be limited to invoices, bank state-

1 ments, canceled checks, and such other information as the
2 Secretary may require.

3 (7) The concessioner shall annually submit to the
4 Secretary a statement reflecting total activity in the fund
5 for the preceding financial year. The statement shall re-
6 flect monthly deposits, expenditures by project, interest
7 earned, and such other information as the Secretary re-
8 quires.

9 (8) A fund established pursuant to this subsection
10 may not be used for any capital expenditure exceeding
11 \$2,500,000 in any fiscal year unless such expenditure
12 from a fund has been authorized in advance by Act of Con-
13 gress. The Secretary shall annually inform the Congress
14 concerning the actual and projected use of moneys in each
15 fund established pursuant to this subsection.

16 (9) Upon the termination of a concession contract,
17 or upon the sale or transfer of such contract, any remain-
18 ing balance in the fund shall be transferred by the conces-
19 sioner to the successor concessioner, to be used solely as
20 set forth in this subsection. In the event there is no succes-
21 sor concessioner, the fund balance shall be deposited into
22 the special account established in subsection (a).

23 **SEC. 508. DURATION OF CONTRACT.**

24 (a) MAXIMUM TERM.—A concession contract entered
25 into pursuant to this title shall be awarded for a term not

1 to exceed ten years: *Provided, however,* That the Secretary
2 may award a contract for a term not to exceed twenty
3 years if the Secretary determines that a longer term is
4 a necessary component of the overall contract in order to
5 reduce the costs to the United States of acquiring
6 possessory interests or to carry out the policies of this title
7 and other laws applicable to the National Park System.

8 (b) TEMPORARY CONTRACT.—A temporary conces-
9 sion contract awarded on a non-competitive basis pursuant
10 to section 505(b) of this title shall be for a term not to
11 exceed two years.

12 **SEC. 509. TRANSFER OF CONTRACT.**

13 (a) IN GENERAL.—(1) No concession contract may
14 be transferred, assigned, sold, or otherwise conveyed by
15 a concessioner without prior written notification to, and
16 approval of the Secretary.

17 (2) The Secretary shall not unreasonably withhold
18 approval of a transfer, assignment, sale, or conveyance of
19 a concession contract, but shall not approve the transfer
20 of a concession contract to any individual, corporation or
21 other entity if, among other matters, the Secretary deter-
22 mines that—

23 (A) such individual, corporation or entity is, or
24 is likely to be, unable to completely satisfy all of the
25 requirements, terms, and conditions of the contract;

1 (B) such transfer, assignment, sale or convey-
2 ance is not consistent with the objectives of protect-
3 ing and preserving park resources, and of providing
4 necessary and appropriate facilities or services to the
5 public at reasonable rates;

6 (C) such transfer, assignment, sale, or convey-
7 ance relates to a concession contract which does not
8 provide to the United States consideration commensurate
9 with the probable value of the privileges
10 granted by the contract; or

11 (D) the terms of the transfer, assignment, sale,
12 or conveyance directly or indirectly attribute a significant
13 value to intangible assets or otherwise may
14 so reduce the opportunity for a reasonable profit
15 over the remaining term of the contract that the
16 United States would be required to make substantial
17 additional expenditures in order to avoid interruption
18 of services to park visitors.

19 (b) CONGRESSIONAL NOTIFICATION.—Within thirty
20 days after receiving a request to approve a transfer, assignment,
21 sale, or other conveyance of a concession contract with anticipated
22 annual gross receipts in excess of
23 \$1,000,000 (indexed to 1993 constant dollars) or a duration in excess
24 of 10 years, the Secretary shall notify the
25 Committee on Energy and Natural Resources of the Unit-

1 ed States Senate and the Committee on Resources of the
2 United States House of Representatives of such proposal.
3 Approval of such proposal, if granted by the Secretary,
4 shall not take effect until sixty days after the date of noti-
5 fication of both Committees.

6 **SEC. 510. PROTECTION OF CONCESSIONER INVESTMENT.**

7 (a) EXISTING STRUCTURES.—(1) A concessioner
8 who, pursuant to a concession contract, before the date
9 of enactment of this title acquired or constructed, or as
10 of such date was required by such a contract to commence
11 acquisition or construction, of any structure, fixture, or
12 improvement upon land owned by the United States within
13 a park, shall have a possessory interest therein, to the ex-
14 tent provided by such contract, the value of such
15 possessory interest to be determined for all purposes on
16 the basis of applicable laws and contracts in effect on the
17 day before such date of enactment.

18 (2) The provisions of this subsection shall not apply
19 to a concessioner whose contract in effect on the date of
20 enactment of this title does not include recognition of a
21 possessory interest.

22 (3)(A)(i) Except as provided in subparagraph (B),
23 with respect to a concession contract entered into on or
24 after the date of enactment of this title, the provisions
25 of subsection (b) shall apply to any existing structure, fix-

1 ture, or improvement as defined in paragraph (1), except
2 that the value of the possessory interest as of the termi-
3 nation date of the first contract expiring after the date
4 of enactment of this title shall be used as the basis for
5 depreciation, in lieu of the actual original cost of such
6 structure, fixture, or improvement.

7 (ii) Notwithstanding Generally Accepted Accounting
8 Principles, a concessioner with a possessory interest as
9 provided in subsection (a) may, at the termination date
10 of the first contract expiring after the date of enactment
11 of this Act, re-estimate the useful life of the applicable
12 structure, fixture, or improvement, consistent with sub-
13 section (b): *Provided*, That the estimated useful life of
14 such structure, fixture, or improvement shall not there-
15 after be reestablished or revalued.

16 (B) If the Secretary determines during the competi-
17 tive selection process that all proposals submitted either
18 fail to meet the minimum requirements or are rejected (as
19 provided in section 505), the Secretary may, solely with
20 respect to a structure, fixture, or improvement covered
21 under this paragraph, suspend the depreciation provisions
22 of subsection (b)(1) for the duration of the contract: *Pro-*
23 *vided*, That the Secretary may suspend such depreciation
24 provisions only if the Secretary determines that the estab-
25 lishment of other new minimum contract requirements is

1 not likely to result in the submission of satisfactory pro-
2 posals, and that the suspension of the depreciation provi-
3 sions is likely to result in the submission of satisfactory
4 proposals.

5 (b) NEW STRUCTURES.—(1) On or after the date of
6 enactment of this title, a concessioner who constructs or
7 acquires a new, additional, or replacement structure, fix-
8 ture, or improvement upon land owned by the United
9 States within a park, pursuant to a concession contract,
10 shall have an interest in such structure, fixture, or im-
11 provement equivalent to the actual original cost of acquir-
12 ing or constructing such structure, fixture, or improve-
13 ment, less straight line depreciation over the estimated
14 useful life of the asset according to Generally Accepted
15 Accounting Principles: *Provided*, That in no event shall
16 the estimated useful life of such asset exceed the deprecia-
17 tion period used for such asset for Federal income tax pur-
18 poses.

19 (2) In the event that the contract expires or is termi-
20 nated prior to the estimated useful life of an asset de-
21 scribed in paragraph (1), the concessioner shall be entitled
22 to receive from the United States or the successor conces-
23 sioner payment equal to the value of the concessioner's
24 interest in such structure, fixture, or improvement. A suc-
25 cessor concessioner may not revalue the interest in such

1 structure, fixture, or improvement, the method of depre-
2 ciation, or the estimated useful life of the asset.

3 (3) Title to any such structure, fixture, or improve-
4 ment shall be vested in the United States.

5 (c) INSURANCE, MAINTENANCE AND REPAIR.—Noth-
6 ing in this section shall affect the obligation of a conces-
7 sioner to insure, maintain, and repair any structure, fix-
8 ture, or improvement assigned to such concessioner and
9 to insure that such structure, fixture, or improvement
10 fully complies with applicable safety and health laws and
11 regulations.

12 **SEC. 511. RATES AND CHARGES TO PUBLIC.**

13 The reasonableness of a concessioner's rates and
14 charges to the public shall, unless otherwise provided in
15 the prospectus and contract, be judged primarily by com-
16 parison with those rates and charges for facilities and
17 services of comparable character charged by parties in rea-
18 sonable proximity to the relevant park and operating
19 under similar conditions, with due consideration for length
20 of season, seasonal variance, average percentage of occu-
21 pancy, accessibility, availability and costs of labor and ma-
22 terials, type of patronage, and other factors deemed sig-
23 nificant by the Secretary.

1 **SEC. 512. CONCESSIONER PERFORMANCE EVALUATION.**

2 (a) REGULATIONS.—Within one hundred and eighty
3 days after the date of enactment of this title, the Sec-
4 retary, after an appropriate period for public comment,
5 shall publish regulations establishing standards and cri-
6 teria for evaluating the performance of concessioners oper-
7 ating within parks.

8 (b) PERIODIC EVALUATION.—(1) The Secretary shall
9 periodically conduct an evaluation of each concessioner op-
10 erating under a concession contract pursuant to this title
11 to determine whether such concessioner has performed
12 satisfactorily. In evaluating a concessioner's performance,
13 the Secretary shall seek and consider applicable reports
14 and comments from appropriate Federal, State, and local
15 regulatory agencies, and shall seek and consider the views
16 of park visitors and concession customers. If the Sec-
17 retary's performance evaluation results in an unsatisfac-
18 tory rating of the concessioner's overall operation, the Sec-
19 retary shall so notify the concessioner in writing, and shall
20 provide the concessioner with a list of the minimum re-
21 quirements necessary for the operation to be rated satis-
22 factory.

23 (2) The Secretary may terminate a concession con-
24 tract if the concessioner fails to meet the minimum oper-
25 ational requirements identified by the Secretary within the
26 time limitations established by the Secretary at the time

1 notice of the unsatisfactory rating is provided to the con-
2 cessioner.

3 (3) If the Secretary terminates a concession contract
4 pursuant to this section, the Secretary shall solicit propos-
5 als for a new contract consistent with the provisions of
6 this title.

7 (c) CONGRESSIONAL NOTIFICATION.—The Secretary
8 shall notify the Committee on Energy and Natural Re-
9 sources of the United States Senate and the Committee
10 on Resources of the United States House of Representa-
11 tives of each unsatisfactory overall annual rating and of
12 each concession contract terminated pursuant to this sec-
13 tion.

14 **SEC. 513. RECORDKEEPING REQUIREMENTS.**

15 (a) IN GENERAL.—Each concessioner shall keep such
16 records as the Secretary may prescribe to enable the Sec-
17 retary to determine that all terms of the concessioner's
18 contract have been and are being faithfully performed, and
19 the Secretary, the Inspector General of the Department
20 of the Interior, or any of the Secretary's duly authorized
21 representatives shall, for the purpose of audit and exam-
22 ination, have access to such records and to other books,
23 documents and papers of the concessioner pertinent to the
24 contract and all the terms and conditions thereof as the
25 Secretary and the Inspector General deem necessary.

1 (b) GENERAL ACCOUNTING OFFICE REVIEW.—The
2 Comptroller General of the United States or any of his
3 or her duly authorized representatives shall, until the expi-
4 ration of five calendar years after the close of the business
5 year for each concessioner, have access to and the right
6 to examine any pertinent books, documents, papers, and
7 records of the concessioner related to the contracts or con-
8 tracts involved, including those related to any Park Im-
9 provement Funds established pursuant to section 507(b).

10 **SEC. 514. EXEMPTION FROM CERTAIN LEASE REQUIRE-**
11 **MENTS.**

12 The provisions of section 321 of the Act of June 30,
13 1932 (47 Stat. 412; 40 U.S.C. 303b), relating to the leas-
14 ing of buildings and properties of the United States, shall
15 not apply to contracts awarded by the Secretary pursuant
16 to this title.

17 **SEC. 515. NO EFFECT ON ANILCA PROVISIONS.**

18 Nothing in this title shall be construed to amend, su-
19 persede, or otherwise affect any provision of the Alaska
20 National Interest Lands Conservation Act (16 U.S.C.
21 3101 et seq.).

22 **SEC. 516. IMPLEMENTATION.**

23 (a) AUDIT REQUIREMENT.—Beginning with fiscal
24 year 1997, the Inspector General of the Department of
25 the Interior shall conduct a biennial audit of the Sec-

1 retary's implementation of this title and the award and
2 management of concession contracts and authorizations
3 described in section 504(b).

4 (b) BIENNIAL REPORTS.—Beginning on June 1,
5 1997, and biannually thereafter the Secretary and the In-
6 spector General of the Department of the Interior shall
7 submit a report to the Committee on Energy and Natural
8 Resources of the United States Senate and the Committee
9 on Resources of the United States House of Representa-
10 tives on the implementation of this title and the effect of
11 such implementation on facilities operated and services
12 provided pursuant to concession contracts.

13 (c) INFORMATION FROM SECRETARY.—In each re-
14 port required by this section, the Secretary shall—

15 (1) identify any concession contracts which have
16 been renewed, renegotiated, terminated, or trans-
17 ferred during the 2 years prior to the submission of
18 the report and identify any significant changes in
19 the terms of the new contract;

20 (2) state the amount of franchise fees, the rates
21 which would be charged for services, and the level of
22 other services required to be provided by the conces-
23 sioner in comparison to that required in any pre-
24 vious concession contract for the same facilities or
25 services at the same park;

1 (3) assess the degree to which facilities are
2 being maintained, using the condition of such facili-
3 ties on the date of enactment of this Act as a base-
4 line;

5 (4) indicate whether competition has been in-
6 creased or decreased with respect to the awarding of
7 concession contracts;

8 (5) set forth the total amount of revenues re-
9 ceived and financial obligations incurred or reduced
10 by the Federal Government as a result of enactment
11 of this Act for the reporting period and in compari-
12 son with previous reporting periods and the baseline
13 year of 1993, including the costs, if any, associated
14 with the acquisition of possessory interests; and

15 (6) include information concerning any park
16 improvement funds established pursuant to section
17 507(b) of this title, including—

18 (A) the total amount of funds deposited
19 into and expended from each such fund during
20 the preceding 2-year period; and

21 (B) the purposes for which expenditures
22 from such funds during such period were used.

23 (d) INFORMATION FROM INSPECTOR GENERAL.—In
24 each report required by this section, the Inspector General
25 of the Department of the Interior shall include informa-

1 tion as to the results of the audit required by subsection
2 (a), including—

3 (1) the status of the Secretary's implementation
4 of this title;

5 (2) the extent to which such implementation
6 has furthered the policies of this title, as set forth
7 in section 501, and has led to an increase or de-
8 crease in competition for concession contracts;

9 (3) the adequacy of recordkeeping and other re-
10 quirements imposed on establishment and use of
11 park improvement funds established pursuant to sec-
12 tion 507(b); and

13 (4) any recommendations the Inspector General
14 may find appropriate in order to further the pur-
15 poses of this title and other laws applicable to the
16 National Park System or to assure that park im-
17 provement funds established pursuant to section
18 507(b) are maintained and expenditures therefrom
19 are used in accordance with this title and sound
20 business practices.

21 **SEC. 517. AUTHORIZATION OF APPROPRIATIONS.**

22 There is authorized to be appropriated such sums as
23 may be necessary to carry out this title.

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